



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0838	Title:	Revise taxation of railroad property
Primary Sponsor:	French, Julie	Status:	As Introduced

- | | | |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$600,179	\$588,075	\$88,075	\$88,075
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$353,277	\$759,545	\$1,226,753	\$1,764,043
State Special Revenue	\$22,188	\$47,705	\$77,049	\$110,795
Net Impact-General Fund Balance	<u><u>(\$246,902)</u></u>	<u><u>\$171,470</u></u>	<u><u>\$1,138,678</u></u>	<u><u>\$1,675,968</u></u>

Description of fiscal impact:

This bill would increase property taxes assessed to certain railroads. Department of Revenue administrative costs would increase significantly due to potential Federal 4R Act litigation brought by the railroads.

FISCAL ANALYSIS

Assumptions:

1. Section one of this bill would amend 15-23-204, MCA (assessment of railroads). New subsection 22 would require that railroads report "the average agricultural commodity freight rate charged by the railroad for shippers in Montana for the most recently completed calendar year and the average agricultural commodity freight rate charged by the railroad for shippers outside of Montana for the most recently completed calendar year" as part of their annual report to the Department of Revenue.

2. Section two would amend 15-23-205, MCA (calculation of market value of railroads). The market value of a railroad is calculated by multiplying a value change factor to the railroad's market value for the previous year. The value change factor is a weighted average of change factor for several financial and operating characteristics of the railroad. Under current law the value change factor is the income change factor (weighted 50%), the gross profit margin change factor (weighted 25%), and the property change factor (weighted 25%). This bill would add a freight rate change factor (weighted 25%) and would reduce the weighting of the income change factor from 50% to 25% when the average agricultural commodity rate change factor is greater than 1.0. If the average agricultural commodity rate change factor is less than 1.0 the existing valuation methodology would not change.
3. This bill does not specify an effective date. By default it would become effective on October 1, 2007, and would apply to tax years beginning after December 31, 2007.
4. The 2004 Rail Freight Rate Completion Study resulting from SB 315 (2003 Legislature) found that the average freight rate for wheat from Montana was \$0.0310 per ton-mile, and the average for six other states (North Dakota, South Dakota, Colorado, Kansas, Minnesota, and Nebraska) was \$0.0194 per ton-mile. The ratio of the Montana rate to the other states is 1.5993 (0.0310/0.0194). The freight rate change factor is assumed to be 1.6 for future tax years for purposes of this fiscal note. The average value change factor for BNSF Railroad for the last five years is 0.9989, and the averages of the change factors for value, income, gross profit, and property are close to 1.00. The value of each of these factors for future tax years is assumed to be 1.0 for purposes of this fiscal note. The value change factor under current law for all future tax years would be 1.0 (50% x 1.0 + 25% x 1.0 + 25% x 1.0). The value change factor under this bill for all future tax years would be 1.15 (25% x 1.0 + 25% x 1.0 + 25% x 1.0 + 25% x 1.6). The average of BNSF's allocation factors for the last five years is 6.42%, the same as their allocation factor for tax year 2006. For purposes of this fiscal note, BNSF's allocation factor for future tax years is assumed to be 6.24%. With these assumptions, under current law BNSF's unit market value and BNSF's market value allocated to Montana in future tax years would be the same as in tax year 2006. Under this bill, BNSF's unit market value and BNSF's market value allocated to Montana in tax year 2007 will be 1.15 times the tax year 2006 values. The tax year 2008 values will be 1.3225 (1.15 X 1.15) times the tax year 2006 values. The tax year 2009 values will be 1.520875 (1.15 X 1.15 x 1.15) times the tax year 2006 values. The tax year 2010 values will be 1.74900625 (1.15 X 1.15 x 1.5 x 1.15) times the tax year 2006 values.
5. The tax rate for class 12 property is recalculated every year. It is the statewide average tax rate for all other industrial and commercial property for that tax year, for purposes of this fiscal note the class 12 tax rate for future tax years is assumed to be 3.55%, the tax rate for tax year 2006. For future tax years, mill levies are assumed to be the same as tax year 2006. With these assumptions, BNSF's taxes in future tax years under current law will be the same as in tax year 2006. BNSF's taxes in future tax years under this bill will be increased by the same proportion as the market value. BNSF's general fund taxes (statewide 95 mill levy and 1.5 vo-tech mill levy in certain counties) are estimated to be \$2,355,178 for tax year 2006. Under current law these taxes will remain the same for future tax years. Under this bill, these taxes would increase in future years by the same proportion as the market value. BNSF's state special revenue fund taxes (university system 6 mills) are estimated to be \$147,923 for tax year 2006. Under current law this will remain the same for future tax years. Under this bill, these taxes would be increased in future years by the same proportion as the market value. The calculation of the increases in these taxes are in the table below.

General Fund Revenue (95 mill levy and 1.5 mill levy)					
Tax Year	Fiscal Year	Change Factor	Current Law	HB 838	Difference
2007	2008	1.15	\$2,355,178	\$2,708,455	\$353,277
2008	2009	1.3225	\$2,355,178	\$3,114,723	\$759,545
2009	2010	1.520875	\$2,355,178	\$3,581,931	\$1,226,753
2010	2011	1.7400625	\$2,355,178	\$4,098,157	\$1,742,979
University Special Revenue (6 mill levy)					
Tax Year	Fiscal Year	Change Factor	Current Law	HB 838	Difference
2007	2008	1.15	\$147,923	\$170,111	\$22,188
2008	2009	1.3225	\$147,923	\$195,628	\$47,705
2009	2010	1.520875	\$147,923	\$224,972	\$77,049
2010	2011	1.7400625	\$147,923	\$257,395	\$109,472

6. The Railroad Revitalization and Reform Act of 1976 (4R Act) gave railroads special protection from discriminatory taxation by the states under federal law. Among these protections is that the railroads can take discriminatory tax disputes directly to federal district court, bypassing the state's appeal process entirely. The Department of Revenue anticipates that the railroads will file an appeal with a federal district court if this bill becomes law. The Department of Revenue will require one additional FTE (0.5 FTE attorney (pay band 8) and 0.5 FTE paralegal (pay band 6)) to defend the law. In addition, the Department expects to incur \$500,000 in contracted expenses in FY 2008 and in FY 2009 for expert witnesses and outside counsel to defend the law.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
FTE	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services	\$75,783	\$77,678	\$79,620	\$81,610
Operating Expenses	\$510,996	\$536,063	\$12,599	\$12,914
Equipment	\$13,400	\$0	\$0	\$0
TOTAL Expenditures	\$600,179	\$613,740	\$92,219	\$94,524
<u>Funding of Expenditures:</u>				
General Fund (01)	\$600,179	\$613,740	\$92,219	\$94,524
State Special Revenue (02)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	\$600,179	\$613,740	\$92,219	\$94,524
<u>Revenues:</u>				
General Fund (01)	\$353,277	\$759,545	\$1,226,753	\$1,764,043
State Special Revenue (02)	\$22,188	\$47,705	\$77,049	\$110,795
TOTAL Revenues	\$375,465	\$807,250	\$1,303,802	\$1,874,838
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$246,902)	\$145,805	\$1,134,534	\$1,669,519
State Special Revenue (02)	\$22,188	\$47,705	\$77,049	\$110,795

Effect on County or Other Local Revenues or Expenditures:

- Counties in which railroads with freight rate change factors greater than 1.00 could see increases in tax revenues.

Long-Range Impacts:

- State revenues could increase in future years (see technical note),

Technical Notes:

- The changes in this bill would result in future years in a geometric increase in the market value, taxable value and taxes of a railroad with a freight rate change factor of greater than 1.00.

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date